



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33277950

Date: AUG. 28, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a cultural director, seeks classification as an individual of extraordinary ability in the arts. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, she did not show her sustained national or international acclaim and demonstrate she is among the small percentage at the very top of the field of endeavor. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the

ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

Because the Petitioner has not claimed or established she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined the Petitioner met three of the claimed evidentiary criteria relating to published material at 8 C.F.R. § 204.5(h)(3)(iii), judging at 8 C.F.R. § 204.5(h)(3)(iv), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). However, the Director concluded the Petitioner did not show she garnered sustained national or international acclaim and her achievements have been recognized in the field of expertise, demonstrating she is one of that small percentage who has risen to the very top of the field.

On appeal, the Petitioner argues that her evidence in the aggregate establishes her eligibility as an individual of extraordinary ability and that the Director’s decision “did not provide specific reasons as to why it found that [the Petitioner’s] work is not consistent with being among the small percentage at the top of the field or having a ‘career of acclaimed work.’” Below, we will evaluate the totality of the evidence based on the documentation presented to the Director in the context of the final merits determination.¹

As the Director concluded that the Petitioner submitted the requisite initial evidence, we will determine whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim,² she is one of the small percentage at the very top of the field of endeavor, and her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual’s accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.³ In this matter, we determine the Petitioner has not shown her eligibility.

¹ *See* 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policymanual>.

² *See* 6 USCIS Policy Manual, *supra*, at F.2(A)(1) (stating that such acclaim must be maintained and providing *Black’s Law Dictionary’s* definition of “sustain” is “to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time”).

³ *See* 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (instructing that USCIS officers should consider the petition in its entirety to determine eligibility according to the standard – sustained national or international acclaim and the achievements

As it relates to the Petitioner's background, according to the initial cover letter:

[The Petitioner] is a skilled Cultural Director who has demonstrated her abilities across a myriad of mediums, including art exhibitions and live musical performances. As a result of [her] superior skill set, she has developed a distinguished reputation as a Cultural Director

. . . .

[The Petitioner] has performed in a leading or critical role as Cultural Director in the role of President for the Foundation for Culture of [redacted] The Foundation is dedicated to promoting and preserving the cultural identity of [redacted] with the vision of positioning the city as a cultural destination of national and international significance. . . . [The Petitioner] served as the President of the Foundation for nearly a decade.

. . . .

Her work has also been displayed throughout her career at artistic exhibitions and showcases for wide and diverse audiences. These displays have included art exhibitions and musical performances that have been the culmination of [the Petitioner's] work as a Cultural Director. Examples include the [redacted] exhibition and restoration of the [redacted] canvas, as well as the exhibition of the [redacted] Collection, 1999, by [redacted] at the [redacted] . . . [The Petitioner] has also worked on artistic showcases like the [redacted] Festival . . . at the [redacted]

. . . .

[The Petitioner] was invited to and actually served as a judge during the March 2016 auditions for the [redacted] . . . As a judge, [the Petitioner] evaluated the work of other professionals in the field by assessing the musical skills of the candidates and their knowledge of the [redacted] musical repertoire.

. . . .

Finally, her contributions to the field, as well as her accomplishments as a Cultural Director, have earned [the Petitioner] significant press coverage from major publications. The article, [redacted] published by [redacted] prominently features [the Petitioner] and her opinions on the [redacted] . . . As such, news of [the Petitioner] and her work as a Cultural Director have reached a wider audience.

have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

In the appeal brief, the Petitioner highlights her career achievements as follows:

- [The Petitioner] presented evidence that she was the Director of Culture for [redacted] [redacted] from 1996 to 1999. She was then the President of the Foundation for Culture of [redacted] from 1999 to 2008. In these roles, she held a lead and critical role given that she was responsible for ensuring the historical heritage and cultural management [redacted] in Venezuela.
- From 1999 to 2008, [the Petitioner] presented evidence that she has been published in major publications due to her extraordinary ability as a Cultural Director. . . . [O]ne of the publications in which [the Petitioner] was published, [redacted] is a major publication among the others.
- [The Petitioner] helped install the exhibition of [redacted] in 2007.
- [The Petitioner] presented evidence that she served as a judge of the work of her peers in 2016.

As discussed further below, the Petitioner has served in leadership positions for two cultural organizations in [redacted] received media coverage in the “City” section of [redacted] coordinated visual and performing arts events in [redacted] evaluated the skills of candidates auditioning for a music group in [redacted] and been praised by others in the field. However, in considering the totality of the evidence, the Petitioner has not demonstrated that her achievements are reflective of a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Nor has the Petitioner shown that she has sustained acclaim as a cultural director after 2008.⁴ Furthermore, the Petitioner has not established that she has risen to that small percentage at the very top of the field of endeavor and garnered national or international acclaim. See 8 C.F.R. § 204.5(h)(2), (3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not sufficiently documented a career that meets these very high standards.

As evidence of her leading roles, the Petitioner provided a letter from D-M-M-D-C-, President of the Foundation of Culture of [redacted] stating that the Petitioner served as the organization’s President from 1999 to 2008 and that “projects executed during her management” included: “Festival of the Arts, [redacted] International Fair, [redacted] Festival, International Book Fair, [and] [redacted] Program in Municipal Schools.” Likewise, a letter from D-M-, General Director of [redacted] publishing house,⁵ asserted that the Petitioner’s “direction made possible the location of works, loans

⁴ See 6 USCIS Policy Manual, *supra*, at F.2(A)(1) (instructing that USCIS officers should determine if “the person continues to maintain a comparable level of acclaim in the field of expertise since the person was originally afforded that recognition. A person may, for example, have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter.”).

⁵ D-M-’s letter noted that, as the former Executive Director of the [redacted] in the 1990s and

of paintings in state collections, restoration of original fabrics and frames, such as the printing of an educational brochure for children and the organization of the exhibition in spaces of the centenary [redacted] He also indicated that he and the Petitioner “proceeded with the restoration of a canvas of monumental dimensions by the painter [redacted] that crowned the ceiling of the [redacted] and that “together with a group of architects and restorers,” their project contributed to “the recovery of one of the most important murals in the country.”

Although the Petitioner served as Director of Culture for [redacted] from 1996 to 1999 and then as President of the Foundation for Culture of [redacted] from 1999 to 2008, she did not document roles for any other organizations or establishments after 2008 to demonstrate her sustained acclaim. Moreover, while the Petitioner’s local art and cultural work was reported in the “City” section of [redacted] the Petitioner’s evidence does not indicate that her work received a level of attention rendering her nationally or internationally acclaimed or otherwise placing her among that small percentage at the very top of the field. *See* 8 C.F.R. § 204.5(h)(2), (3). USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of “extraordinary ability.” *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner did not establish that her roles for two cultural organizations in [redacted] resulted in widespread acclaim in her field, attracted significant attention from throughout her field, elevated her to the very top of the field, or was otherwise indicative of sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2), (3).

Regarding media coverage, the Petitioner provided numerous articles in the “City” section of [redacted] reporting on her work in [redacted] from 1996 until 2008.⁶ The Petitioner, however, has not provided news coverage about her from any other media source besides [redacted] She has not demonstrated that her press coverage in a local section of a single newspaper, without any further media reporting about her since 2008, is consistent with the sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act. Nor has the Petitioner shown how her overall media coverage is indicative of a level of success with being among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Here, the Petitioner has not established that her media coverage in only one newspaper (limited to the mid-1990s until 2008) reflects a “career of acclaimed work in the field” or a “very high standard . . . to present more extensive documentation than that required.” *See* H.R. Rep. No. at 59 and 56 Fed. Reg. at 30704.

As it pertains to the Petitioner’s service as a judge of the work of others, an evaluation of the significance of her experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. The Petitioner presented a letter from Dr. J-C-R-, “founder of the [redacted] [redacted] stating: “In March 2016 the auditions for the creation of the [redacted] [redacted] began. The work consisted of evaluating the musical skills of the participants and the

2000s, he worked with the Petitioner while she was serving as “the Director of Culture for [redacted] during the years 1996-1999” and when she “later became President of the Foundation for Culture of [redacted] 1999-2008.”

⁶ We agree with the Director that [redacted] is a form of major media. The Petitioner asserts on appeal that “she has been published in major publications,” but has only submitted articles in [redacted] and its circulation information.

knowledge in the execution of each instrument, as well as the repertoire. . . . The [redacted] was made up of 11 people; [the Petitioner] was invited as a juror to evaluate the row of cellos.” Here, the Petitioner has not shown that her judging experience involved evaluating the work of nationally or internationally renowned cellists rather than local [redacted] musicians whose reputations are not documented in the record. Furthermore, the Petitioner has not established that this single instance of judging auditions for the [redacted] in 2016 contributes to a finding that she has a career of acclaimed work in the field of cultural direction or demonstrates the required “sustained national or international acclaim.” *See* H.R. Rep. No. 101-723 at 59 and section 203(b)(1)(A) of the Act. She did not show, for example, how her experience in evaluating cellists for the [redacted] compares to others at the very top of her field. Similarly, the record does not show that the Petitioner garnered national or international acclaim for her service as a judge. Without evidence that sets her apart from others in the field, such as evidence that she has a consistent history of judging recognized, acclaimed artists, performers, or experts in her field, the Petitioner has not shown that her judging experience places her among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

The Petitioner also provided recommendation letters praising her for her talents, skills, and capabilities as a cultural director. For instance, D-M- indicated that the Petitioner contributed to “the organization of the exhibition of emblematic works of [redacted] in which works by the painter were reproduced on canvas and together with a catalog the exhibition was circulated through schools, athenaeums, and houses of culture in the [redacted] State. A program that made it possible to bring works of art closer to children and young students with limited resources.” Although the letters commend the Petitioner on her art and culture projects in [redacted] they do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that she is viewed by the overall field, rather than by a solicited few, as being among the small percentage at the very top of the field of endeavor. Moreover, the letters do not establish that her specific contributions are indicative of a career of acclaimed work in the field and the requisite sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

Furthermore, while the Petitioner was involved in the planning and coordination of festivals, concerts, and other artistic events in [redacted] (such as the city’s International Fair, Venezuelan [redacted] Festival, and [redacted] exhibition) from the mid-1990s until 2008, simply organizing such events does not automatically place her at the very top of the field. She did not demonstrate, for example, that her specific planning and coordination work garnered a level of attention consistent with having sustained national or international acclaim or placed her among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2), (3). Nor is there evidence indicating that the Petitioner has maintained involvement in directing comparable activities in [redacted] or any other major city after 2008. She therefore that not demonstrated that whatever level of acclaim she received in the field of cultural direction has been sustained since 2008.

The record as a whole, including the evidence discussed above, does not establish the Petitioner’s eligibility for the benefit sought. Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary

ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff’d*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). *See also Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach).

After consideration of the totality of the evidence, including the Petitioner’s leadership positions for two cultural organizations in [REDACTED] published material about her in the “City” section of [REDACTED] her coordination of art and culture events and programs in [REDACTED] her single instance of judging candidates auditioning for a music group in [REDACTED] as well as the opinions of her colleagues in the field, we conclude that this documentation does not sufficiently establish her sustained national or international acclaim or show that she is among that small percentage who has risen to the very top of the field of endeavor. Nor does the Petitioner’s evidence demonstrate that she continues to maintain a comparable level of acclaim in her field of expertise after 2008. While the Petitioner’s documentation indicates that she received media attention from one newspaper for her activities in [REDACTED] from 1996 until 2008, she has not shown that her achievements are indicative of the required sustained acclaim or that they are consistent with a “career of acclaimed work in the field” as contemplated by Congress. *See* H.R. Rep. No. at 59; *see also* section 203(b)(1)(A) of the Act. In addition, the Petitioner has not otherwise demonstrated that she has garnered national or international acclaim in her field and that she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2), (3).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.